

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**CHARLESTON DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

CRIMINAL ACTION NO. 2:95-cr-00051-01

BANDELE M. JONES,

Defendant.

**MEMORANDUM OPINION AND JUDGMENT ORDER**

Pending before the Court is a motion, brought pursuant to 18 U.S.C. § 3582(c)(2), to reduce Defendant's sentence based on a subsequent reduction in the applicable sentencing guideline. On November 1, 2007, the United States Sentencing Guidelines were amended to reduce by two levels the guidelines in Section 2D1.1 for cocaine base (also known as crack). Subsequently, the Sentencing Commission amended Section 1B1.10 to make the crack amendment retroactive, effective March 3, 2008. Pursuant to a Standing Order entered on February 6, 2008, this case was designated for Standard consideration.

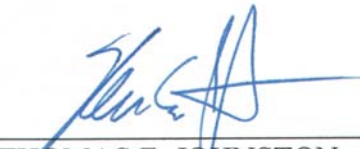
The Court has received and considered the addendum to the PSI from the Probation Office, and received any materials submitted by the parties on this issue.

At the time of his original sentencing, the Defendant's Total Offense Level was determined to be 42 which, coupled with a Criminal History Category of III, established a custody range of 360 months to life. Under the current Guideline calculations, the Defendant's Total Offense Level is determined to be 40. When coupled with a Criminal Category of III, this reduced Offense Level still

establishes a custody range of 360 months to life. Because the recalculation of the Defendant's Guidelines does not reduce his custody range, he is not eligible for a reduction of his sentence. In their respective written responses, both the United States and the Defendant acknowledge that the Defendant is not eligible for a sentence reduction. For these reasons, the § 3582 Motion is **DENIED**.

The Court **DIRECTS** the Clerk to send a copy of this Order to Defendant and counsel, the United States Attorney, the United States Probation Office, and the United States Marshals.

ENTER: September 2, 2008



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THOMAS E. JOHNSTON  
UNITED STATES DISTRICT JUDGE